THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No.6670 of 2006

Dated: 04.04.2006

Between:

S. Radhakrishnaiah.

.... PETITIONER

AND

Bharat Heavy Electricals Limited, Ramachandrapuram, Medak District, rep. by its Executive Director and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

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Writ Petition No.6670 of 2006

Order:

This writ petition is filed seeking a Mandamus declaring the action of respondent Nos.1 and 2 in not reinstating the petitioner into service even though the order dated 09.03.1995 of respondent No.3-District Collector has been stayed by the Government vide Memo No. 52/CV.2/2006-2, dated 03.03.2006, as illegal and arbitrary and for consequential direction to respondents to continue the petitioner in

service as Artisan Grade-III (Fitter).

Heard the learned counsel for the petitioner, learned Standing Counsel for respondent Nos.1 and 2 and the learned Government Pleader for Revenue.

The petitioner was appointed as an Artisan Grade-IV (Fitter) in Bharat Heavy Electricals Limited, respondent No.1 herein, on 12.03.1987, against a vacancy reserved in favour of Scheduled Tribes. The respondent received a complaint about a decade ago, wherein it was alleged that the petitioner does not belong to Scheduled Tribe, and that the caste certificate produced by him is bogus. Thereupon, departmental proceedings were initiated against the petitioner, and ultimately, through order, dated 09.03.1995, respondent No.3-District Collector cancelled the caste certificate issued in his favour. Aggrieved by the orders of cancellation of his caste certificate, the petitioner preferred an appeal before the Government, and the Government, by order dated 03.03.2006, stayed the operation of the order dated 09.03.1995 passed by respondent No.3-District Collector. Meanwhile, respondent No.2 passed the impugned order dated 14.12.2005 dismissing the petitioner from service.

One of the grounds urged by the petitioner is that the order of dismissal is based upon the orders passed by the District Collector in proceedings dated 09.03.1995, canceling the caste certificate, and since the operation of the said order is suspended by the Government, there is no justification for the respondent to dismiss him from service. He submitted that in similar circumstances, the order of the learned Single Judge passed in W.P. No. 2194 of 2005, dated 25.02.2005, upholding the order of dismissal from service of an employee passed by the respondent-Organisation, was set aside by a Division Bench of this Court, by order dated 26.04.2005 passed in Writ Appeal No. 481 of 2005.

In Writ Appeal No. 481 of 2005, a Division Bench of this Court held thus.

> "The appellant had availed the statutory remedy of appeal and this Court suspended the operation of the order, dated 01.09.2004 passed by the District Collector, Hyderabad. The appellant has been in service since last 17 years. The dismissal would certainly result in deprivation of livelihood. It is not a case where he has been dismissed from service on any ground of misconduct. Except the order of cancellation of the caste certificate, passed by the District Collector, Hyderabad, no other strong circumstance is stated in the order of dismissal. In that view of the matter, we are of the view that the appellant deserves to be continued in service, till the disposal of the appeal by the appellate authority under the Act.

> Hence, we allow the writ appeal and set aside the order passed in the writ petition. The writ petition is allowed, directing that the order dated 16.09.2004, passed by the respondent, dismissing the petitioner from service, shall remain in abeyance, till the Government of A.P., represented by its Additional Secretary, Tribal Welfare Department, before whom the appeal preferred by the appellant herein is pending, disposes of the appeal. The appellant shall be reinstated into service forthwith. The appellate authority, to whom a copy of this order shall be marked, is directed to dispose of the appeal, as early as possible and not later than three months, from the date of receipt of a copy of this order. In case, the appeal is dismissed, it shall not be necessary for the respondent to pass any further orders, and the order dated 16.09.2004 shall become operative. On the other hand, if the appeal is allowed, or disposed of, in any other manner, the further action to be taken by the respondent herein, shall depend on the outcome of the same. The respondent shall be entitled to put forth its case and place necessary material before the appellate authority and that latter shall issue notice of hearing to the respondent, whenever the appeal is taken up for hearing. There shall be no order as to costs.

In the instant case also, since the order of dismissal is based upon the orders passed by the District Collector in proceedings dated 09.03.1995, canceling the caste certificate, and since the operation of the said order is suspended by the Government, following the judgment of the Division Bench of this Court passed in Writ Appeal No. 481 of 2005, dated 26.04.2005, this writ petition is also allowed on the same terms. No costs.

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N.V. RAMANA, J.

Date: 04.04.2006

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